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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

JEFF HATCH-MILLER, Chairman  
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 MIKE GLEASON  
 KRISTIN K. MAYES  
 GARY PIERCE

2007 MAR 15 P 2:48

AZ CORP COMMISSION  
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Arizona Corporation Commission

DOCKETED

MAR 15 2007

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IN THE MATTER OF THE APPLICATION OF  
 ARIZONA-AMERICAN WATER COMPANY,  
 INC., AN ARIZONA CORPORATION, FOR  
 APPROVALS ASSOCIATED WITH A  
 PROPOSED TRANSACTION WITH MARICOPA  
 COUNTY MUNICIPAL WATER  
 CONSERVATION DISTRICT NUMBER ONE TO  
 ALLOW THE CONSTRUCTION OF A SURFACE  
 WATER TREATMENT FACILITY KNOWN AS  
 THE WHITE TANKS PROJECT

DOCKET NO. W-01303A-05-0718

ARIZONA-AMERICAN WATER  
 COMPANY

RESPONSE TO MOTION TO  
 STRIKE

1 Arizona-American Water Company ("Arizona-American") hereby responds to the March  
 2 14, 2007, Motion to Strike submitted by the Maricopa County Municipal Water Conservation  
 3 District No. 1 ("MWD"). MWD's Motion seeks to prevent the Commission from considering  
 4 important information concerning the cost of the MWD facility, what MWD would charge  
 5 facility customers, and the potential rate impact of purchasing treatment capacity from MWD.  
 6 As discussed below, it is without merit and should be denied.

7 **1. MWD FAILED TO DISCUSS THE COST OF ITS FACILITY, WHAT IT WOULD**  
 8 **CHARGE CUSTOMERS, OR THE RATE IMPACT OF ITS PROPOSAL**

9 In its November 29, 2006, Request for Expedited Hearing, Arizona-American suggested  
 10 that MWD should address seven issues in its testimony. The very first issue was: "What will be  
 11 the total cost of MWD's treatment facility?" Issue 5 was: "How much does MWD intend to  
 12 charge its customers?" Issue 7 was: "How would Customers be Better off with MWD's  
 13 Proposal?" In the December 13, 2006, Procedural Order in this case, Judge Wolfe asked the  
 14 parties to come to the scheduled procedural conference prepared to discuss Arizona-American's

1 list of issues and the witnesses they would offer. At the prehearing conference, MWD offered  
2 that it would provide three witnesses concerning these issues.

3 However, in its January 24, 2007, prefiled testimony, MWD completely sidestepped  
4 these three enormously important issues. Although Mr. Sweeney's testimony gave lip service to  
5 the seven issues, neither he nor Mr. Albu provided any estimate of the expected cost of an MWD  
6 plant in the year it was expected to come on line, or what MWD projected that it would charge  
7 customers. Further, there was an even more glaring omission. MWD provided no estimate at all  
8 of what its proposal would cost Arizona-American's customers. This made it impossible to  
9 assess the customer impact of MWD's proposal

10 Faced with these gaping holes in MWD's testimony, Arizona-American had to focus its  
11 February 21, 2007, testimony on what MWD actually filed. Once that was completed, Arizona-  
12 American was able to turn to the fundamental questions that MWD did not answer. This  
13 required that Arizona-American review and analyze MWD's data requests and, essentially, take  
14 over MWD's fumbled assignments. This additional work was completed in time to be filed as  
15 surrebuttal testimony on March 12, 2007.

16 **2. ARIZONA-AMERICAN'S SURREBUTTAL TESTIMONY PROVIDES**  
17 **IMPORTANT EVIDENCE THAT THE COMMISSION NEEDS TO CONSIDER**

18 As just discussed, MWD sidestepped three important issues:

- 19 1. What would its plant cost?
- 20 2. What would it charge customers for treatment services?
- 21 3. How much would customer rates have to go up if Arizona-American were to  
22 purchase treatment services from MWD instead of building its own treatment plant?

23 If MWD had heeded Judge Wolfe's wishes, Arizona-American would have been able to  
24 respond to MWD's testimony on these issues as part of its February 21, 2007, testimony.  
25 However, MWD chose not to answer these questions. Because the answers to these questions  
26 are so fundamentally important, Arizona-American was forced to spend the additional time and  
27 resources to analyze these issues and prepare testimony and exhibits for the Commission's

1 consideration. These were significant additional tasks that required additional time to complete  
2 after the Company completed and filed its February 21, 2007, testimony.

3 **3. MWD WAS NOT PREJUDICED BY FILING AFTER THE 12:00 P.M.**  
4 **DEADLINE**

5 On Friday, March 9, Mr. Marks alerted Mr. Sabo that Arizona-American would be filing  
6 surrebuttal testimony on March 12. Then, although it was not required, Arizona-American  
7 provided courtesy copies of its testimony by email to all the parties and Judge Wolfe at 3:10 p.m.  
8 on Monday, March 12, 2007. This included both MWD counsel Timothy Sabo, and his  
9 administrative assistant, Mary Ippolito. If Arizona-American had not done this, Mr. Sabo would  
10 have at best received a copy with his Tuesday, March 13, mail delivery. MWD was not  
11 prejudiced by the delay.

12 **4. MWD DOES NOT NEED ANY ADDITIONAL DISCOVERY**

13 We are only in this situation, because MWD chose not to address the most important  
14 issues in this case. Arizona-American's additional testimony is very brief. Mr. Broderick's  
15 testimony relies almost entirely on the attached MWD data response. The only material  
16 additional information is based on Mr. Gross' brief testimony on the delay costs associated with  
17 the MWD proposal. The balance of Mr. Broderick's testimony is entirely computational and  
18 thoroughly explained in the text.

19 MWD does not need any additional discovery to explore the assumptions in Mr.  
20 Broderick's testimony—with one exception they are MWD's figures. MWD does not need any  
21 additional discovery concerning Mr. Broderick's math. MWD can easily check the calculations  
22 and, if it believes there are any errors, it can demonstrate them on the stand.

23 As just discussed, Mr. Gross' brief testimony is offered to provide the basis for one input  
24 in Mr. Broderick's calculations—the delay costs associated with purchasing treatment capacity  
25 from MWD. If MWD does not believe there will be delay costs or that they will be a different  
26 amount, it can ask Mr. Gross about them. Further, Mr. Gross has already identified where the  
27 figure came from: the Alternative Source of Supply Analysis, completed by Brown & Caldwell

1 in May 2006. This document was already provided to MWD on February 21, 2007, in response  
2 to MWD Data Request 1-1.


3 Mr. Gross also discusses what MWD's plant would cost, if it could be built in 2009.  
4 Again, this is entirely based on MWD's assumptions, which Mr. Gross identifies in his  
5 testimony. No additional discovery on this topic is needed.

6 Arizona-American would not object to MWD providing some brief, oral rejoinder,  
7 limited to the issues discussed by Mr. Gross and Mr. Broderick in Arizona-American's March  
8 12, 2007, testimony. As we have discussed, these are enormously important issues. If MWD  
9 finally wants to discuss them, the opportunity should be provided.

10 **5. CONCLUSION**

11 MWD's Motion is without merit and should be denied. It seeks to prevent the  
12 Commission from considering important information concerning the cost of the MWD facility,  
13 what MWD would charge facility customers, and the potential rate impact of purchasing  
14 treatment capacity from MWD. These are all questions that MWD was supposed to answer, but  
15 chose not to. Finally, MWD was not prejudiced by any filing delay and needs no more  
16 discovery.

17 RESPECTFULLY SUBMITTED on March 15, 2007.  
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1 Original and 13 copies **filed**  
2 on March 15, 2007, with:

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4 Docket Control  
5 Arizona Corporation Commission  
6 1200 West Washington  
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9 Copies of the foregoing **delivered**  
10 on March 15, 2007, to:

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19 Copies of the foregoing also **emailed**  
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24 By:

  
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